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CITY OF BURBANK, including the Police  
Department of the City of Burbank

**SUPERIOR COURT OF THE STATE OF CALIFORNIA**

**COUNTY OF LOS ANGELES**

OMAR RODRIGUEZ; CINDY GUILLEN-  
GOMEZ; STEVE KARAGIOSIAN;  
ELFEGO RODRIGUEZ; AND JAMAL  
CHILDS,

Plaintiffs,

-VS-

BURBANK POLICE DEPARTMENT;  
CITY OF BURBANK; TIM STEHR;  
KERRY SCHILF; JAMIE "J.J." PUGLISI;  
DAN YADON; KELLY FRANK; PAT  
LYNCH; MIKE PARRINELLO; AARON  
KENDRICK; DARIN RYBURN; AND  
DOES 1 THROUGH 100, INCLUSIVE.

Defendants.

CASE NO: BC 414602

[Assigned to Hon. Joanne O'Donnell,  
Dept. 37]

**DEFENDANT'S REPLY IN  
SUPPORT OF MOTION IN LIMINE  
NO. 4 TO EVIDENCE OR  
ARGUMENT RELATING TO  
DISCIPLINE IMPOSED AGAINST  
BURBANK POLICE DEPARTMENT  
MEMBERS FOR ANYTHING  
OTHER THAN HARASSMENT OF  
KARAGIOSIAN AND DISCIPLINE  
OF FORMER CHIEF STEHR FROM  
TWENTY YEARS AGO**

Trial Date: June 8, 2011 (Pltf. Karagiosian)  
Discovery Referee: Hon. Diane Wayne, Ret.

Action filed: May 28, 2009

In his Opposition, Plaintiff does not (and cannot) dispute that information regarding  
discipline imposed on police officers is protected under Evidence Code § 1040 *et seq.*, Penal

1 Code § 832.8 and the *Pitchess* process. Nor does he dispute that this protection extends to  
2 personal recollections regarding officer discipline. (See, MIL No. 4 at 5:3-11, citing *City of*  
3 *San Diego v. Superior Court* (1981) 136 Cal.App.3d 236, 239.) Instead, he argues that until  
4 the discovery referee rules as to whether this information can be disclosed at all, he should  
5 be free to introduce such evidence – or to insinuate its existence – in front of the jury. He  
6 has it backward. Unless or until there is a determination that the information is material to  
7 his claim of ethnic harassment, there is no basis for allowing its disclosure to the jury.

8 Nor does Plaintiff argue that officer disciplinary information unrelated to his factual  
9 allegations are relevant to his ethnic harassment claim. Instead, his Opposition is devoted  
10 to arguing that he needs the to present disciplinary information about other officers in order  
11 to disprove Burbank's "avoidable consequences" defense, and to prove his claim that  
12 Burbank failed to "take all reasonable steps to prevent harassment from occurring." (Gov.  
13 Code § 12940(j)(1), (k).) However, information about disciplinary actions against officers  
14 is *not* relevant for either of these purposes. Evidence regarding disciplinary action taken  
15 against officers as a result of harassment complaints would obviously not be probative as to  
16 Burbank *failing* to investigate such complaint or to take disciplinary action if the allegations  
17 were sustained.

18 Moreover, in order to prevail on his claim for failure to prevent harassment, Plaintiff  
19 would have to prove "*legal causation*" and *resultant damages* – i.e., that *he* was subjected  
20 to actionable harassment as a result of any failure to prevent. *Trujillo v. North County Transit*  
21 *Dist.* (1998) 63 Cal.App.4th 280, 286-87. Plaintiff has offered no theory, nor is there any  
22 evidence, suggesting that the acts of harassment he claims were directed at him because of  
23 his Armenian ethnicity were the result of the manner in which Burbank dealt with harassment  
24 complaints by *other* employees.

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1 In sum, Plaintiff is seeking to introduce protected disciplinary information regarding  
2 fellow police officers which has no bearing on either his claims that he was harassed based  
3 on his Armenian ethnicity *or* on his claim that Burbank failed to prevent that harassment.  
4 Accordingly, this motion should be granted.

5  
6 DATED: June 6, 2011

BALLARD ROSENBERG GOLPER & SAVITT, LLP

7  
8 By: 

PHILIP L. REZNIK

9 Attorneys for Defendant  
10 CITY OF BURBANK, including the Police Department  
11 of the City of Burbank  
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**PROOF OF SERVICE**

I am a citizen of the United States, and am employed in the County of Los Angeles in the office of a member of the bar of this Court at whose directions this service was made. I am over the age of 18, and not a party to the within action. My business address is Ballard, Rosenberg, Golper & Savitt, 500 North Brand Boulevard, Twentieth Floor, Glendale, California 91203-9946.

On June 6, 2011, I served the foregoing document described as:  
**DEFENDANT'S REPLY IN SUPPORT OF MOTION IN LIMINE NO. 4 TO EVIDENCE OR ARGUMENT RELATING TO DISCIPLINE IMPOSED AGAINST BURBANK POLICE DEPARTMENT MEMBERS FOR ANYTHING OTHER THAN HARASSMENT OF KARAGIOSIAN AND DISCIPLINE OF FORMER CHIEF STEHR FROM TWENTY YEARS AGO** on the interested parties in this action, by placing a true copy thereof in a sealed envelope addressed as follows:

Solomon E. Gresen, Esq.  
Steven V. Rheuban, Esq.  
Law Offices of Rheuban & Gresen  
15910 Ventura Boulevard, Suite 1610  
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[seg@rglawyers.com](mailto:seg@rglawyers.com)  
Attorneys for Plaintiffs

**VIA FACSIMILE;** and

X

**(BY FEDEX)** I am "readily familiar" with the firm's practice of collection and processing correspondence for delivery by Federal Express. Under that practice, in the ordinary course of business, it would be deposited with Federal Express on that same day with directions for next day delivery, with the Federal Express fees guaranteed to be paid by Ballard, Rosenberg, Golper & Savitt, LLP.

X

**(BY ELECTRONIC MAIL)** I sent the above-mentioned documents via electronic mail addressed as set forth above.

**(BY MAIL)** and personally placing such envelope with postage fully prepaid for collection and mailing on the above-referenced date following the ordinary business practices of this office. I am readily familiar with our office's practice for collection and processing of correspondence for mailing with the United States Postal Service. In the ordinary course of business, correspondence, including said envelope, will be deposited with the United States Postal Service at Glendale on the above-referenced date.

**(BY PERSONAL SERVICE)** I delivered such envelope(s) by hand to the above-addressee(s).

I declare under penalty of perjury that the foregoing is true and correct under the laws of the State of California. Executed on June 6, 2011 at Glendale, California.

  
Leslie Reheis